

### **REMARKS**

Claims 1, 3-5 are pending and under consideration in the above-identified application. Claims 15-46 were withdrawn in a previous amendment and remain withdrawn. Claims 2 and 6-14 were cancelled previously.

In the Office Action of February 24, 2010, claims 1, 3-5 were rejected.

With this Amendment, no claims were amended.

### **35 U.S.C. § 102 Anticipation Rejection of Claims and 35 U.S.C. § 103 Obviousness Rejection of Claims**

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Yoon et al.* (U.S. Pat. No. 6,482,547) (“*Yoon*”).

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ueda et al.* (U.S. Pat. No. 6,027,833) (“*Ueda*”) in view of *Morita et al.* (EP 0861804) (“*Morita*”).

Applicant respectfully traverses this rejection.

In relevant part, each of the independent claims 1 and 3-5 recite a negative electrode having the relationship  $G_s = H_{sg}/H_{sd} \leq 10$  holds, where  $G_s$  is the degree of graphitization,  $H_{sg}$  is the height of a surface enhanced Raman spectrum signal having a peak within the range of  $1580\text{ cm}^{-1}$  to  $1620\text{ cm}^{-1}$ , both inclusive, and  $H_{sd}$  is the height of a surface enhanced Raman spectrum signal having a peak within the range of  $1350\text{ cm}^{-1}$  to  $1400\text{ cm}^{-1}$ , both inclusive.

This is clearly unlike *Yoon*, *Ueda*, and *Morita* which all fail to disclose or even fairly suggest a negative electrode having the relationship  $G_s = H_{sg}/H_{sd} \leq 10$  holds, where  $G_s$  is the degree of graphitization,  $H_{sg}$  is the height of a surface enhanced Raman spectrum signal having a peak within the range of  $1580\text{ cm}^{-1}$  to  $1620\text{ cm}^{-1}$ , both inclusive, and  $H_{sd}$  is the height of a

surface enhanced Raman spectrum signal having a peak within the range of  $1350\text{ cm}^{-1}$  to  $1400\text{ cm}^{-1}$ , both inclusive. Instead, *Yoon* discloses a negative electrode where the intensity ratio of crystalline carbon is more than 0.2. See, U.S. Pat. No. 6,482,547, Col. 7, l. 3-21. *Ueda* discloses the ratio of intensities between a composite carbon particle and a carbon matrix being .4 or higher. See, U.S. Pat. No. Col. 5, l. 46-63. *Morita* discloses the ratio of two peak strengths of carbon being  $1360\text{ cm}^{-1}/1580\text{ cm}^{-1}$ . See, EP 0861804 at Page 9, l. 20-24. These cannot be fairly viewed as disclosing the degree of graphitization of a negative electrode because both references relate to the intensity of carbon and not the degree of graphitization.

As the Applicant's specification discloses, by providing a negative electrode having the relationship  $G_s = H_{sg}/H_{sd} \leq 10$  holds, where  $G_s$  is the degree of graphitization,  $H_{sg}$  is the height of a surface enhanced Raman spectrum signal having a peak within the range of  $1580\text{ cm}^{-1}$  to  $1620\text{ cm}^{-1}$ , both inclusive, and  $H_{sd}$  is the height of a surface enhanced Raman spectrum signal having a peak within the range of  $1350\text{ cm}^{-1}$  to  $1400\text{ cm}^{-1}$ , both inclusive, a cylindrical non-aqueous electrolyte secondary battery is produced with a negative electrode surface area which decreases the irreversible capacity of the secondary battery while suppressing the charging/discharging deterioration of the battery. See, U.S. Pat. Pub. No. 2002/0015888, Para. [0102] & [0146].

Therefore, because *Yoon*, *Ueda*, *Morita* or any possible combination of them fails to disclose or even fairly suggest every feature of claims 1 and 3-5, the rejection of claims 1 and 3-5 cannot stand.

**Conclusion**

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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By: /David R. Metzger/  
David R. Metzger  
Registration No. 32,919  
SONNENSCHNEIN NATH & ROSENTHAL LLP  
P.O. Box 061080  
Wacker Drive Station, Willis Tower  
Chicago, Illinois 60606-1080  
(312) 876-8000